



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

AS/LKG

*271 Cadman Plaza East
Brooklyn, New York 11201*

January 28, 2019

By Hand and ECF

The Honorable Carol B. Amon
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Scott Brettschneider
Criminal Docket No. 18-123 (S-1) (CBA)

Dear Judge Amon:

The government respectfully submits this letter to notify the Court that it does not intend to admit any evidence under Rule 404(b) of the Federal Rules of Evidence regarding the defendant Scott Brettschneider.¹ The government also assumes that the defense will not elicit (or otherwise mention in jury addresses) any history or characteristics about the defendant—either about his health, family, or career—that could improperly generate sympathy or inflame the jury. See, e.g., United States v. Paccione, 949 F.2d 1183, 1201 (2d Cir. 1991) (affirming exclusion of evidence that “no bearing on the merits of the case” but “could well cause the jury to be influenced by sympathies”); Weinstein's Federal Evidence § 403.04[1][c] (2018) (collecting cases) (listing “[e]vidence that appeals to the jury’s sympathies” as excludable under Rule 403).

¹ At the last court appearance, the government stated that it was contemplating a motion *in limine* to seek permission to introduce evidence about co-defendant Charles Gallman’s criminal history and reputation. The government has decided that it will not elicit such information at this trial. Also at the last appearance, counsel indicated that she had issues isolating wiretaps calls involving her client. The government advised how that could be done, and has not heard from counsel about this issue or any other pertaining to discovery since the conference. We therefore assume that the defense is not experiencing any other difficulties.

To the extent the defendant believes any such information has probative value, the government respectfully requests that he brief the issue in opposition to this letter.

Respectfully submitted,

RICHARD P. DONOGHUE
United States Attorney

By: /s/
Lindsay K. Gerdes
Andrey Spektor
Assistant U.S. Attorneys
(718) 254-6155/6475

cc: Counsel of record (by ECF and email)